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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/060,876	01/30/2002	Robert McGowan Mann	31311.104	6936
7590	08/10/2004		EXAMINER	
Paul F. Wille 6407 East Clinton Street Scottsdale, AZ 85254			BOSWELL, CHRISTOPHER J	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 08/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/060,876	MANN, ROBERT MCGOWAN
	Examiner Christopher Boswell	Art Unit 3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 May 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-13 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 30 January 2002 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 8-10, and 13 rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Number 4,648,207 to Shibasaki.

Shibasaki discloses a seal (figure 2 and 4) adapted to be located in a groove (13) between a frame and a moveable member, the seal comprising an elongate support member (3) having opposed upper and lower faces and opposed first and second sides, and a sealing lip (2 and 5) extending along and being joined to the support member, the sealing lip having an anchor portion (2a and 5a) and a sealing portion (8 and 21), the anchor portion being hingedly connected to the support member (15 and 22) and the sealing portion being spaced from the support member by the anchor portion and having an edge which defines a terminal sealing edge (edges of 8 and 21) of the sealing lip, where the sealing lip resides in an operative position when the seal is located in the groove (figure 2), the sealing lip being retained in the operative position by the anchor portion being trapped in face-to-face contact with the first side of the support member and an opposed side of the groove such that the hinge connection is isolated from flexure of the sealing portion (figure 2) and the sealing portion projects laterally beyond the upper face of the support member and the groove to provide a seal between the frame and moveable member (figure 2), as in claim 1.

Shibasaki also discloses the sealing lip and support member are formed from an elastomer, plastic material (column 1, lines 29-32), as in claims 2 and 4.

Shibasaki further discloses the anchor portion being hingedly connected to the first side (figures 2 and 4), as in claim 3.

Shibasaki additionally discloses the support member being formed from a plastics material or elastomer and the sealing lip is formed from an elastomer, the support member and sealing lip are extruded as an integrally connected piece (column 3, lines 13-15), as in claim 5.

Shibasaki also discloses the sealing lip extruded to define a hinge (15 and 22) spaced from the first side to enable the sealing lip to move relative to the support member between the inoperative and operative positions (figures 2 and 4), as in claim 8.

Shibasaki additionally discloses the anchor portion having an inner face (15 and 22) and an outer face (2a and 5a), the inner face being in a face to face contact with the first side when the sealing lip is in an operative position (figure 2), the outer face being provided with face engagement means which are engageable with a side of a groove (figure 2) formed in the frame or movable member to retain the seal with in the groove, as in claim 9.

Shibasaki further discloses the sealing lip being located adjacent to the second side of the support member (figure 2), as in claim 10

Shibasaki further discloses a structure which is substantially similar to that as claimed in the present application, wherein a seal is formed between a frame (1) and a movable member (11) mounted on a frame, with a groove (13) in the frame or movable member and locating a seal, within the groove with the lower face of the support member

adjacent to the bottom of the groove (figure 2) so as to trap the anchor portion of each sealing lip between a side of the groove and the opposed side of the support member and so as to isolate the hinge connection between the anchor portion and support member from flexure of the sealing member (figure 3, lines 16-41), as in claim 13.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shibasaki, as applied above, in view of U.S. Patent Number 5,007,202 to Guillon.

Shibasaki discloses the invention substantially as claimed in claims 6 and 7. However, Shibasaki does not disclose the sealing lip being co-extruded with a planar strip-like body. Guillon teaches of a planar strip-like body (24) on the support member in the analogous art of seals between a frame and a moveable member for the purpose of decreasing friction between the moveable member (12) and the frame (14). It would have been obvious to one with ordinary skill in the art at the time the invention was made to co-extrude the seal of Shibasaki with a planar strip-like body as taught by Guillon in order to decrease the friction among the moving parts of the moveable member and the frame.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shibasaki, as applied above, in view of U.S. Patent Number 5,279,087 to Mann.

Shibasaki discloses the invention substantially as claimed in claims 11 and 12. However, Shibasaki does not disclose the support member being used as a fire seal or the support member comprising an intumescent material. Mann teaches the use of a seal encompassing an intumescent material (24) in the analogous art of seals between a frame and a moveable member for the purpose of providing a fire and smoke seal (column 1, lines 7-11). It would have been obvious to one with ordinary skill in the art at the time the invention was made to manufacture the support member of Shibasaki to be a hollow member filled with an intumescent material in order to act as a fire and smoke seal between the frame and the moveable member.

Response to Arguments

Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Boswell whose telephone number is (703) 305-4067. The examiner can normally be reached on 8:30 - 5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



CJB 
August 4, 2004

DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600